

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Access Charge Reform</b>	)	<b>CC Docket No. 96-262</b>
	)	
<b>Price Cap Performance Review for Local Exchange Carriers</b>	)	<b>CC Docket No. 94-1</b>
	)	
<b>Low-Volume Long Distance Users</b>	)	<b>CC Docket No. 99-249</b>
	)	
<b>Federal-State Joint Board on Universal Service</b>	)	<b>CC Docket No. 96-45</b>

**COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY**

Cincinnati Bell Telephone Company ("CBT"), an independent, mid-size local exchange carrier submits these comments in response to the Commission's September 15, 1999 Notice of Proposed Rulemaking in the above captioned proceeding.<sup>1</sup>

**I. INTRODUCTION**

CBT supports the adoption of the proposal filed by the Coalition for Affordable Local and Long Distance Service ("CALLS"); however, this support is contingent upon the adoption of the proposal in its entirety. This proposal is a carefully crafted compromise, which in CBT's view is fair to both long distance carriers and local exchange carriers. Consumers will also realize benefits as a result of the more rational rate structures and the concomitant increase in competition. If any parts of the package are changed, the balance inherent in the current

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<sup>1</sup> *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board On Universal Service*, CC Docket No. 96-262, CC Docket No. 94-1, CC Docket No. 99-249, CC Docket No. 96-45, *Notice of Proposed Rulemaking* (FCC 99-235) released September 15, 1999.

proposal will be lost and the solution no longer viable. Thus, CBT urges the Commission to promptly adopt the CALLS proposal in its entirety as a voluntary option for price cap local exchange carriers.

Although CBT supports the CALLS proposal, CBT stresses that its support for the proposal in no way implies that CBT agrees that the 6.5% X-factor and the target per minute rate for local switching and switched transport are the appropriate levels for mid-size price cap ILECs. However, if adopted as part of the entire proposal, CBT believes the trade-offs in the plan provide an acceptable balance for the otherwise unreasonable levels of the productivity and per minute rates.

## **II. THE PLAN INSTITUTES LONG OVERDUE CHANGES TO THE UNIVERSAL SERVICE AND ACCESS CHARGE STRUCTURES**

The CALLS proposal contains many positive components that have been advocated by CBT and other ILECs for quite some time. If adopted, these changes will result in a much more rational rate structure, which in turn will encourage competition within residential and rural markets. Furthermore, long distance consumers should see substantial savings since the removal of implicit universal service subsidies and common line restructuring will enable long distance carriers to reduce their rates.

CBT believes that removing implicit universal service support from access charges, coupled with the simplification of the common line structure and deaveraging of the subscriber line charge, will provide the impetus for increased competition in residential markets. Once ILEC common line rate structures more closely reflect the manner in which these costs are

incurred there will be more incentive for new entrants to compete for residential customers whose rates are currently far below cost in many areas.<sup>2</sup>

CBT submits that the access related universal service support should be distributed according to state-approved unbundled network element (“UNE”) loop and port prices. Consistency between the UNE price and the access related universal service support will eliminate the arbitrage opportunities that could otherwise lead to inefficient economic decisions if an ILEC’s retail and wholesale prices are based on two different cost models. Furthermore, the UNE price will be more representative of each individual company’s costs since the state commissions have generally arrived at UNE prices that are specific to each company’s costs. The universal service cost model, on the other hand, is a generic model and as such cannot accurately represent costs for all companies. As CBT stressed in its comments on the inputs to be used in the universal service cost model, it is particularly inappropriate to use such a model to estimate prices for unbundled elements or access charges, especially for mid-size companies.<sup>3</sup> In order to accurately capture the unique operating characteristics of the mid-size companies that

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<sup>2</sup> CBT notes that this proposal alone cannot completely eliminate the disincentives for competition for residential customers that currently exist. In order for competition to fully develop in residential markets, the state commissions must allow deaveraging of local residential rates.

<sup>3</sup> Comments of Cincinnati Bell Telephone Company in the matter of *Federal-State Joint Board on Universal Service, Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, CC Docket No. 96-45, CC Docket No. 97-160, *Further Notice of Proposed Rulemaking*, filed July 23, 1999. Also see *Federal-State Joint Board on Universal Service, Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, CC Docket No. 96-45, CC Docket No. 97-160, *Tenth Report and Order*, FCC 99-304, released November 2, 1999 at para. 32 indicating that “(t)he federal cost model was developed for the purpose of determining federal universal service support, and it may not be appropriate to use nationwide values for other purposes, such as determining prices for unbundled network elements. We caution parties from making any claims in other proceedings based upon the input values we adopt in this Order.”

can result in significant differences in their costs compared to larger companies,<sup>4</sup> it is important that the CALLS proposal base the access related universal service support on the state approved UNE price. Otherwise, the arbitrage opportunities that the use of the high-cost model would create in this context would be exacerbated in the mid-size company markets.

### III. 6.5 PERCENT X-FACTOR IS TOO HIGH

CBT reiterates its long held position that a 6.5% X-factor is too high, especially for mid-size ILECs like CBT. While the United States Telecom Association (“USTA”) has repeatedly provided evidence, based on large company data, that the appropriate X-factor should be considerably below 6.5%,<sup>5</sup> CBT and other mid-size ILECs have provided evidence that the appropriate X-factor for the mid-size companies should be at least 1% lower than the X-factor of the large companies<sup>6</sup>.

CBT’s support of the CALLS proposal in no way negates the validity of the USTA and mid-size company studies. Rather, it is a recognition of the give and take that is inherent in the CALLS proposal. Although CBT does not agree with the 6.5% X-factor, the other positive components of the plan offset the inappropriate X-factor the plan embodies. In addition to the universal service and rate structure changes discussed above, the plan would provide much needed certainty and stability for both ILEC and long distance participants. Constantly changing

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<sup>4</sup> As discussed in more detail in Section IV, *infra*, the CALLS proposal recognizes the different cost characteristics of the mid-size companies.

<sup>5</sup> See, for example, USTA ex parte letter in *Price Cap Performance for Local Exchange Carriers* CC Docket No. 94-1, filed September 10, 1999.

<sup>6</sup> Independent Telephone and Telecommunications Alliance ex parte letter in *Price Cap Performance for Local Exchange Carriers* CC Docket No. 94-1, filed May 14, 1998. Also see, Petition for Reconsideration of Cincinnati Bell Telephone Company in *Price Cap Performance for Local Exchange Carriers* CC Docket No. 94-1, *Fourth Report and Order*, filed July 11, 1997.

rules are especially burdensome and expensive for smaller LECs to implement due to their limited resources. Therefore, a reasonable plan that stabilizes the access structure for the next five years is particularly beneficial for the smaller LECs like CBT.

Under the current system, the rules are continually in a state of flux. What seems certain one day can easily change the next as a result of a court decision or new Commission ruling. Of all of the Commission's rules, the X-factor and price cap formula are perhaps the most susceptible to challenge and change, and therefore, generate the greatest uncertainty for ILECs. Furthermore, the impact of X-factor changes can be very significant, reaching across all ILEC interstate access services. A perfect example of the uncertainty faced by ILECs is the current activity surrounding the price cap formula. The Commission is exploring changes to the price cap formula which would be akin to a return to rate of return regulation. As Dr. William Taylor indicates in his comments in that proceeding, "(t)he proposed adjustments to the LEC price-cap plan are merely the latest in a series of adjustments in the last several years, inspired by intervenors' concerns with ILEC accounting earnings. These continual adjustments frustrate, rather than promote, economic efficiency because they are nothing more than a form of re-contracting that undermines the efficiency-enhancing incentives that were the primary reason for adopting price-cap regulation in the first place."<sup>7</sup> The Commission is also about to reassess the

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<sup>7</sup> Comments of William E. Taylor, Ph.D. on Behalf of United States Telephone Association in the matter of *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers, Petition of US West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA*, CC Docket No. 96-262, CC Docket No. 94-1, CCB/CPD File No. 98-63, CC Docket No. 98-157, *Further Notice of Proposed Rulemaking*, filed October 29, 1999 at para. 4.

6.5% X-factor in light of the D.C. Circuit Court's remand.<sup>8</sup> Meanwhile, the Commission has yet to address the pending Petition for Reconsideration of the X-factor for mid-size ILECs.<sup>9</sup>

Although the X-factor contained in the CALLS proposal is too high, ILECs adopting the plan would have the assurance that it will not continue to change from year to year. Additional stability is provided by the target minute of use rate. While CBT in no way concedes that the \$0.0065 per minute target rate established for mid-size ILECs is correct, its use in the plan provides much needed certainty relative to the application of a constantly changing X-factor and price cap formula.

#### **IV. THE PLAN RECOGNIZES MID-SIZE ILEC DIFFERENCES**

One aspect of the plan that has received very little attention, but deserves specific mention is the plan's recognition that mid-size companies are different from the large companies. The CALLS proposal, which is the result of negotiations between large price cap ILECs and interexchange carriers, acknowledges that the unique nature of mid-size ILECs results in different cost and pricing characteristics compared to the large price cap ILECs. Although CBT does not believe that the higher target per minute rate established in the plan adequately reflects all of the differences between the large and mid-size carriers, none the less, it is significant that these large carriers, both LECs and IXC's have acknowledged that differences do in fact exist and should be recognized in the Commission's rules.

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<sup>8</sup> United States Tel. Ass'n v. FCC, No. 97-1469 (D.C. Cir. May 21, 1999).

<sup>9</sup> Petition for Reconsideration of Cincinnati Bell Telephone Company in the matter of *Price Cap Performance for Local Exchange Carriers* CC Docket No. 94-1, *Fourth Report and Order*, filed July 11, 1997.

## **V. CONCLUSION**

CBT considers the CALLS plan to be a reasonable compromise to the age-old debate over the structure and level of interstate access charges and the implicit universal service subsidies contained in those rates. As with any compromise, the plan contains some components that CBT likes and some that it does not like; however, the stability that the plan provides to all parties is extremely important. Likewise the plan is in the public interest due to the lower long distance charges that the plan makes possible and the impetus that it provides for increased competition in residential and rural markets. CBT urges the Commission to promptly adopt this plan as a voluntary option for price cap carriers.

Respectfully submitted,

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November 12, 1999